

Decision No. R04-0366-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-049BP

IN THE MATTER OF THE APPLICATION OF DIALED-IN-AUTO, LLC, 3060 SOUTH DAHLIA STREET, DENVER, COLORADO 80222 FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER BY MOTOR VEHICLE FOR HIRE.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
VACATING HEARING AND SCHEDULING
PRE-HEARING CONFERENCE**

Mailed Date: April 8, 2004

I. STATEMENT

1. The captioned application of Dialed-In-Auto, LLC (Dialed-In), was filed with the Colorado Public Utilities Commission (Commission) on January 29, 2004, and was published in the Commission's "Notice of Applications Filed" on February 9, 2004. It is currently scheduled for hearing on April 12, 2004.

2. Golden West Commuter, LLC (Golden West) and R&R Transportation, Inc., have filed interventions in this matter.

3. On March 23, 2004, Golden West filed a Motion to Dismiss and Alternate Motion *In Limine*; Motion for Shortened Response Time and Postponement of Hearing; Motion for Attorneys Fees (Motion). The Motion requests that this application be dismissed as a result of Dialed-In's failure to respond to discovery, its failure to file a witness/exhibits list, and/or its failure to secure legal counsel. In the alternative, the Motion requests that limitations be placed

on the evidence Dialed-In may present at hearing. It also requests that the hearing be continued and that Golden West be awarded the attorneys fees it has incurred in preparing the Motion.¹

4. On March 26, 2004, Dialed-In and Golden West filed a pleading entitled “Stipulation of Parties; Motion to Restrictively Amend Application and to Withdraw Intervention” (Stipulation). The Stipulation indicated that Dialed-In wished to restrictively amend the application in certain respects and, upon Commission approval of such amendments, that Golden West wished to withdraw its intervention. Although the restrictive amendments set forth in the Stipulation were acceptable and would have rendered the Motion moot, it was rejected as a result of Dialed-In’s failure to properly execute the same. *See*, Decision No. R04-0320-I. That decision suggested that the parties resubmit a properly executed Stipulation. However, no such filing has yet been made. It also provided that any desired response to the Motion be submitted on or before April 6, 2004. However, Dialed-In did not file a response prior to that date.

5. It is observed that Dialed-In, at least up to this point, has not retained legal counsel and is representing itself on a *pro se* basis. Therefore, it is very likely unfamiliar with the process and procedures governing Commission proceedings. In addition, its failure to respond to the Motion may result from confusion concerning the status of the Stipulation. The Commission has traditionally afforded wide latitude to *pro se* parties and has been reluctant to impose sanctions upon them for behavior that might otherwise be expected from parties represented by legal counsel. *See, for example*, 4 *Code of Colorado Regulations* (CCR) 723-1-

¹ That portion of the Motion requesting that response time to the same be shortened to March 30, 2004, was denied. *See*, Decision No. R04-0320-I.

72(b)(1)(certain procedural requirements applicable to complaint proceedings shall not be strictly applied to *pro se* complainants).

6. Under the circumstances described above, it would be beneficial to conduct a pre-hearing conference in this matter. Therefore, the currently scheduled hearing will be vacated and a pre-hearing conference will be held in its place. The pre-hearing conference will potentially deal with all issues contemplated by 4 CCR 723-1-79(b)(5) including, without limitation, identification of issues to be addressed in this proceeding, the resolution of the Motion and any other pending motions, and the establishment of a revised procedural schedule, including hearing dates.

II. ORDER

A. It is Ordered That:

1. The hearing of this matter scheduled for April 12, 2004, is vacated.
2. A pre-hearing conference is scheduled in this matter as follows:

DATE: April 12, 2004
TIME: 9:00 A.M.
PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

3. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge